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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/888,214

06/21/2001

Frank Melzer

LO25-003

8415

21567

7590

03/23/2004

WELLS ST. JOHN P.S.
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EXAMINER

SHAFFER, RICKY D

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,214

Applicant(s)

MELZER ET AL.

Examiner

Ricky D. Shafer

Art Unit

2872

pw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 5-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 23 February 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 February 2004 has been entered.
2. Applicant's arguments filed 23 February 2004 have been fully considered but they are not persuasive for the reasons as set forth below.
3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1-4 and 22-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification, as originally filed, fails to provide an enabling disclosure as to how to connect a plurality of individual optical elements (mirrors) to a basic body, by a galvanoplastic joining technique, when the plurality of individual optical elements (mirrors) are positioned "on" said basic body. Note Fig. 2 and page 6, lines 30 to 34 of the specification, which states that the mirror elements (9) placed on the basic body (8) are connected to the basic body (8) by a galvanoplastic joining technique, as indicated by an intermediate layer (10) between the mirror elements (9) and the basic body (8).

Art Unit: 2872

It would appear that the positioning of the plurality of individual optical elements (mirrors) on the basic body would prevent an intermediate layer from being formed between the basic body and the individual optical elements (mirrors) and would substantially cover all of the exterior surfaces except for the interface between the individual optical elements (mirrors) and the basic body.

Thus, the specification, as originally filed, fails to adequately teach one of ordinary skill in the art how to make an intermediate layer (10), formed by a galvanoplastic joining technique, located between the individual optical elements (mirrors) and the basic body when the individual optical elements (mirrors) are positioned on the basic body without undue experimentation and/or speculation as to what type of "galvanoplastic joining technique" applicant may be intending/referring too.

5. The amendment filed 23 February 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

A). On Page 4 of the specification, the replacement of the description of Fig. 2 with a description of figures 2a and 2b in the Brief Description Of The Drawings contains new matter due the fact that Fig. 2a includes multiple intermediate layers (10) between the base body (8) and the mirror elements (9) and Fig. 2b includes mirror elements (9) being partially covered with a protection layer (30).

B). On page 5 of the specification, the replacement of "figure 2" with --figures 2a and 2b-- is considered new matter for the same reasons stated above.

Art Unit: 2872

C). On page 6 of the specification, the addition of the language “Additionally...process.” is considered new matter for the same reasons stated above.

Applicant is required to cancel the new matter in the reply to this Office Action.

6. The drawings are objected to because Fig. 2a includes multiple intermediate layers (10) between the base body (8) and the mirror elements (9) and Fig. 2b includes mirror elements (9) being partially covered with a protection layer (30) which is considered to be new matter. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

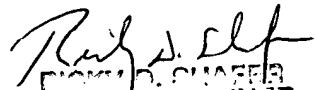
Art Unit: 2872

will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication should be directed to Ricky D. Shafer at telephone number (571) 272-2320.

RDS

March 21, 2004


RICKY D. SHAFER
MAR 21 2004